

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DOUGLAS A. CASE, JR.,**

**Plaintiff,**

**v.**

**6:10-CV-1102 (NAM/DEP)**

**THE TOWN OF NEW HARTFORD, PETER  
COLBURN, MICHAEL INSERRA, and  
KAREN CASE,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR PLAINTIFF:**

**KELLOGG LAW OFFICE  
901 East Brighton Avenue  
Syracuse, NY 13205**

**BRIAN J. KELLOGG, ESQ.**

**FOR DEFENDANTS TOWN OF  
NEW HARTFORD and MICHAEL  
INSERRA:**

**GOLBERG, SEGALLA LAW FIRM  
5789 Widewaters Pkwy.  
Syracuse, NY 13214**

**MOLLY M. RYAN, ESQ.  
SANDRA J. SABOURIN, ESQ.**

**FOR DEFENDANT PETER  
COLBURN:**

**MORRIS, DUFFY LAW FIRM  
2 Rector Street  
New York, NY 10006**

**CARL S. SANDEL, ESQ.**

**FOR DEFENDANT KAREN CASE:**

**LONGERETTA LAW OFFICE**  
**298 Genesee Street**  
**Utica, NY 13502**

**DAVID A. LONGERETTA, ESQ.**

**NORMAN A. MORDUE, U. S. DISTRICT JUDGE**

**ORDER**

The above matter comes to me following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed on the 17<sup>th</sup> day of May 2012. Following fourteen (14) days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. Defendants' joint motion to dismiss plaintiff's complaint (Dkt. No. 32) is granted, and plaintiff's complaint (Dkt. No. 1) is dismissed, with prejudice, and with leave to the defendants to apply for an award of costs and attorney's fees under both Rules 11 and Rule 37(b)(2)(C), related to reasonable expenses caused by plaintiff's discovery failure, and pursuant to 42 U.S.C. § 1988.
3. Any application for costs and attorney's fees shall be filed within thirty (30) days of this Order or on or before July 19, 2012 and referred to Magistrate Judge Peebles for a recommendation.
4. The Clerk of the Court shall serve a copy of this Order upon all parties and the

Magistrate Judge assigned to this case

**IT IS SO ORDERED.**

Dated: June 19, 2012  
Syracuse, New York

  
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Honorable Norman A. Mordue  
U.S. District Judge

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